

## METROPOLITAN AREA PLANNING COMMISSION

### MINUTES

October 19, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 19, 2006, at 1:40 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing, Vice-Chair; John W. McKay Jr.; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Denise Sherman; Bud Hentzen; Ronald Marnell; Hoyt Hillman and Michael Gisick. Don Anderson, Bill Johnson and Morris K Dunlap were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; David Barber, Advanced Plans Manager and Maryann Crockett, Recording Secretary.

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"DOWNING announced that public comment on cases would be taken at Subdivision Committee meetings."

1. Approval of the September 21 and October 5, 2006 MAPC minutes.

**MOTION:** To approve the September 21, 2006 MAPC meeting minutes.

**WARNER** moved, **MITCHELL** seconded the motion and it carried (9-0). **BISHOP** and **MCKAY** abstained.

**MOTION:** To approve the October 5, 2006 MAPC meeting minutes with the exception of Item #5 - ZON2006-38.

**MITCHELL** moved, **ALDRICH** seconded the motion and it carried (11-0).  
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❖ **SUBDIVISION ITEMS**

**Item 2-1 to 2-3 may be taken in one motion unless there are questions or comments.**

2. Consideration of Subdivision Committee recommendations from the meeting of October 12, 2006.

- 2-1. **SUB 2004-147: Final Plat -- PIER 37 ADDITION**, located on the south side of 37th North and on the west side of Ridge Road.  
(Deferred from 9/28/06)

**NOTE:** This unplatted site is located in the County adjoining Wichita's city limits and annexation is required.

Lot 30 has been approved for a zone change (ZON2004-42) from SF-20, Single-Family Residential to LC, Limited Commercial. Protective Overlay #146 was approved for the site addressing permitted uses, signs, screening and building materials. The site is located within the 100-year floodplain.

Lots 22-29, Block A have been approved for a zone change (ZON 2004-39) from SF-5, Single-Family Residential to LI, Limited Industrial.

This revised plat has included a private street serving 29 lots.

**STAFF COMMENTS:**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the portion of the property not contained within the zone changes will be zoned SF-5, Single-Family Residential.
- B. Lots 22-30, Block A have been approved for a zone change (ZON 2004-39) to LI, Limited Industrial. Prior to this plat being considered by MAPC, the Applicant shall submit a letter to MAPC requesting a withdrawal of the zone change request.
- C. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. In lieu of assessment for sewer main is needed, which may be included with lateral petition.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. 20' drainage easements shall be shown on the plat between lots 4&5, 14&15, 21&22 and 27&28, Block A.**
- E. The plat proposes one opening to 37th St. North and one opening to Ridge Road. **The access controls are approved.**
- F. Two emergency access easements have been proposed which extend to the south. **The Subdivision Committee approved a paved emergency access easement at the end of the cul-de-sac, which includes a Knox-box. Maintenance responsibilities shall be specified within a restrictive covenant.**
- G. The emergency access easements shall be established by separate instrument. The text of the instrument shall indicate the type of driving

- surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards.
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- I. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. A covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities.
- N. The applicant shall guarantee the paving of the proposed interior streets. For Reserve A being platted for private streets, improvements shall be guaranteed for construction to a public street standard; however as private improvements, guarantees cannot be provided through the use of petitions.
- O. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- P. A PO Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PO's and their special conditions for development on this property.
- Q. County Surveying advises that the benchmark needs a better description.
- R. A bold line at the intersection of Wild Rose Cir and 37th St North should be added to denote this is a Reserve (private street).
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. On the final plat tracing, the MAPC signature block needs to reference "Darrell A. Downing, Chair".
- U. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.

- BB. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- DD. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve subject to staff recommendations.

**GISICK** moved, **HENTZEN** seconded the motion and it carried (11-0).

- 2-2. **SUB 2006-90: One-Step Final Plat -- ECCO INDUSTRIAL 2<sup>ND</sup> ADDITION**, located on the west side of Hoover Road and south of 31<sup>st</sup> Street South.

**NOTE:** This is a replat of Ecco Industrial Addition that includes the vacation of three streets.

**STAFF COMMENTS:**

- A. Water is available on Hoover. Sewer main is available on Hoover but in lieu of sewer lateral assessment is applicable unless a sewer lateral extension is done.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering requests a copy of the drainage plan. City Engineering has approved the drainage plan subject to the following: The detention pond shall be located within a platted Reserve, with the maintenance responsibility being specified in the platters text. An additional easement along the north side of the plat may be needed. The plat should include 20' drainage easements along the north, west, south and east property line. Minimum pad elevations are needed.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes two access openings to Hoover. **The plat shall note that the openings shall be "in accordance with the Wichita-Sedgwick County Access Management Regulations".**
- E. On the final plat, the MAPC signature block needs to reference "Darrell A. Downing, Chair".
- F. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted

on this property.

- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendations.

**GISICK** moved, **HENTZEN** seconded the motion and it carried (11-0).

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**2-3.        SUB 2006-92: One-Step Final Plat -- AUTOCRAFT ADDITION**, located west of Maize Road and on the north side of Kellogg Drive.

**NOTE:** This is an unplatted site located within the City.

**STAFF COMMENTS:**

- A. Sewer is available and was assessed in 1994 for sewer main and in 1995 for sewer lateral but received an agricultural deferral at that time. Water is available along Kellogg but this property was not assessed so it will incur fees in lieu of assessment at the time of connection.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A 20-foot drainage easement is requested along the north and east property line for offsite stormwater improvements. An offsite drainage easement will need to be obtained from the landowner to the east.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening to Kellogg Drive. This opening is a joint opening with the property to the east previously established by separate instrument. **The access controls are approved.**
- E. On the final plat, the MAPC signature block needs to reference "Darrell A. Downing, Chair".
- F. The reference to "Lark Lane (Vacated)" shall be deleted, as the adjoining property was not previously dedicated as a public right-of-way.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- O. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendations.

**GISICK** moved, **HENTZEN** seconded the motion and it carried (11-0).

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❖ **PUBLIC HEARINGS – VACATION ITEMS**  
**ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.**

**3-1. VAC 2006-35: Request to Vacate a Portion of Public Right-of-Way**

**APPLICANTS/AGENT:** City of Wichita c/o Ed Martin

**LEGAL DESCRIPTION:** The portion of Dewey Street ROW (which was platted as Morris Street, as recorded on the Grieffenstein's Third Addition Wichita, Sedgwick County, Kansas) located between Lots 108, 109, 110 & 111, Grieffenstein's Third Addition (north and south sides) and between Main & Market Streets (west and east sides)

**LOCATION:** Generally located between Main & Market Streets and Lewis Street & Kellogg Drive (WCC #1).

**REASON FOR REQUEST:** Redevelopment of downtown Wichita

**CURRENT ZONING:** The site is a platted, developed public street ROW, all abutting and adjacent properties are zoned "CBD" Central Business District

The applicant is requesting vacation of the approximately 305-foot long (x) 70-foot wide portion of Dewey Street as described. This portion of Dewey abuts north end of the site of the metal sculptured entrance into downtown Wichita and is a block east of the Waterwalk redevelopment project. There is Westar equipment, Cox cable lines, a gas line, storm water and a water line in the ROW. The Grieffenstein's Third Addition was recorded with the Register of Deeds June 19, 1873.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted street (Dewey) ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 14, 2006 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted street ROW and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted street ROW described in the petition should be approved with conditions:
- (1) Retain all of Dewey Street as a utility-storm water easement.
  - (2) Retain a portion of Dewey Street as a public access easement to allow access onto the south side of Lot 109 Grieffenstein's Third Addition. The Traffic Engineer will determine access to either Market or Main Streets. The public access easement will extend to the north-south-alley, to prevent it from becoming a dead end alley or the applicant shall provide an approved cul-de-sac, hammerhead or another point of access to public street ROW, as approved by the Traffic Engineer. Provide Planning with a legal description of the public access easement on a word document via e-mail. Improvements to the public access easement will be per City Standards, including drives and/ or continuation of curbing. All improvements shall be the responsibility and at the expense of the applicants. Provide petitions or guarantees as needed.
  - (3) Obtain the original signature of the owner of Lot 109, Grieffenstein's Third Addition on the petition to vacate. This must be provided to Staff prior to the case going to WCC for final action.
  - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Provide petitions or guarantees as needed.
  - (5) If bricks were used for any portion of the Dewey ROW the applicant shall contact the Public Works Department in regards to returning the bricks to the City.
  - (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain all of Dewey Street as a utility-storm water easement.
- (2) Retain a portion of Dewey Street as a public access easement to allow access onto the south side of Lot 109, Grieffenstein's Third Addition. The Traffic Engineer will determine access to either Market or Main Streets. The public access easement will extend to the north-south-alley, to prevent it from becoming a dead end alley or the applicant shall provide an approved cul-de-sac, hammerhead or another point of access to public street ROW, as approved by the Traffic Engineer. Provide Planning with a legal description of the public access easement on a word document via e-mail. Improvements to the public access easement will be per City Standards, including drives and/ or continuation of curbing. All improvements shall be the responsibility and at the expense of the applicants. Provide petitions or guarantees as needed.
- (3) Obtain the original signature of the owner of Lot 109, Grieffenstein's Third Addition on the petition to vacate. This must be provided to Staff prior to the case going to WCC for final action.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Provide petitions or guarantees as needed.
- (5) If bricks were used for any portion of the Dewey ROW the applicant shall contact the Public Works Department in regards to returning the bricks to the City.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendations.

**BISHOP** moved, **ALDRICH** seconded the motion and it carried (10-0). **MCKAY** abstained saying he owned property in the area.

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**3-2.      VAC 2006-36: Request to Vacate a Portion of a Platted Easement,**

**OWNER/APPLICANT:**                               37<sup>th</sup> & Ridge Development Company, LLC, c/o Mike Boyd

**AGENT:**    Baugman Company, PA, c/o Phil Meyer

**LEGAL DESCRIPTION:**                           That part of the platted 10-foot utility easement centered on the west line of Lot 3, Block A, Northridge Plaza Addition, Wichita, Sedgwick County, Kansas, lying south of a line that lies 15-feet south of and parallel with the north line of said Northridge Plaza Addition and lying north of the extended south line of said Lot 3.

**LOCATION:**   Generally located midway between 37<sup>th</sup> Street North & state highway K-96, on the west side of Ridge Road (WCC #V)

**REASON FOR REQUEST:**                       Development of Lot 3 and adjacent Lot 2

**CURRENT ZONING:**                             Site and abutting north, west and south properties are zoned "LC" Limited Commercial. Public street right-of-way (Ridge Road) abuts site's east side

The applicant proposes to vacate the described platted easement. There are no utilities manholes, sewer or water lines in the easement. This request is associated with a recorded lot split; SUB2006-89, FILM/PAGE: 28820690 which includes a cross lot drainage agreement, FILM/PAGE: 28820689. The Northridge Plaza Addition recorded with the Register of Deeds June 4, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portion of a platted easement with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time September 14, 2006 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above described portion of a platted easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted easement described in the petition should be approved with conditions:

- (1) If needed, provide Planning with a copy of any required additional public easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) If needed, any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a petition/guarantee for the relocation of the sewer line and manholes as needed.
- (3) Retain the easements until all utilities have been relocated or a petition/guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. If needed, provide Planning with a copy of any required additional public easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
2. If needed, any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a petition/guarantee for the relocation of the sewer line and manholes as needed.
3. Retain the easements until all utilities have been relocated or a petition/guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
4. All improvements shall be according to City Standards and at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** To approve subject to staff recommendations.

**HILLMAN** moved, **BISHOP** seconded the motion and it carried (11-0).

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**3-3. VAC 2006-37: Request to Vacate the Restriction of Uses in a Platted Reserve to Allow a Neighborhood Swimming Pool and its Associated Uses in a Portion of the Platted Reserve**

**OWNER/APPLICANT:** Fairmont, LLC, c/o Rob Ramseyer

**AGENT:** Baughman Company, PA, c/o Russ Ewy

**LEGAL DESCRIPTION:** Vacate the plat text's restriction of uses in regards to uses allowed in Reserve B, the Fairmont Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located ½-mile north of 21<sup>st</sup> Street North, on the southwest corner of Mainsgate Street and 127<sup>th</sup> Street East

**REASON FOR REQUEST:** To allow a neighborhood swimming pool and its associated uses

**CURRENT ZONING:** Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of the restriction of uses in the plat's text for a portion of platted Reserve B, Fairmont Addition. The applicant requests the vacation to allow the additional uses of a neighborhood pool, parking and a pool house while retaining the existing allowed uses in Reserve B. The uses that Reserve B has been set aside for include landscaping, sidewalks, open space, lakes, drainage purposes, utilities as confined to easements and pipelines as confined to easements. There may be manholes and sewer line in the west portion of the reserve, confined to a platted utility and drainage easement located in the reserve, but there appears to be no water lines in the reserve. A large portion of the reserve is retaining water and drainage plans must be submitted to Storm Water for review and approval. Franchised utilities are confined to the platted drainage and utility easement located along the west side of the reserve. The plat also states that Reserve B shall be owned and maintained by the homeowners of the association for the addition. The Fairmont Addition was recorded with the Register of Deeds February 21, 2002. This case is also associated with BZA2006-00065, a variance on the parking, and CON2006-00033, a conditional use request for a neighborhood pool and its associated uses in "SF-5" zoning.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the uses of that portion of Reserve B as described in the legal description to allow a neighborhood pool and its associated uses with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time September 14, 2006 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described uses of the platted reserve and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the uses in a portion of the platted reserve described in the petition should be approved subject to the following conditions:
- (1) Vacate the use restrictions as listed in a portion of Reserve B to allow the additional uses of a swimming pool and related facilities, a parking lot, a club house and recreational uses. Retain the original uses allowed in Reserve B of landscaping, sidewalks, open space, lakes, drainage purposes, utilities as confined to easements and pipelines as confined to easements. Provide Planning with a legal description on a word document, via e-mail of the approved area of the pool site and its associated uses.
  - (2) Drainage and site plans must be provided to Storm Water for review and approval prior to the VAC2006-37 going to the WCC for final action and prior to the issuance of building permits.
  - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  - (4) All improvements shall be according to City Standards.
  - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the use restrictions as listed in a portion of Reserve B to allow the additional uses of a swimming pool and related facilities, a parking lot, a club house and recreational uses. Retain the original uses allowed in Reserve B of landscaping, sidewalks, open space, lakes, drainage purposes, utilities as confined to easements and pipelines as confined to easements. Provide Planning with a legal description on a word document, via e-mail of the approved area of the pool site and its associated uses.
- (2) Drainage and site plans must be provided to Storm Water for review and approval prior to the VAC2006-37 going to the WCC for final action and prior to the issuance of building permits.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** To approve subject to staff recommendations.

**HILLMAN** moved, **BISHOP** seconded the motion and it carried (11-0).

❖ **PUBLIC HEARINGS**  
**ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.**

4. **Case No.: CON2006-35** – Steven and Helen Simon / Robert Kaplan Request Conditional Use for sand extraction on “RR” Rural Residential zoning on 500+ acres on property described as;

The Southwest Quarter of Section 8, Township. 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas,  
TOGETHER WITH,  
Parcel No. 2  
The West Half of the Southeast Quarter of Section 8, Township. 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas



TOGETHER WITH,

Parcel No. 3

The South Half of the Northeast Quarter of Section 8, Township. 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas

TOGETHER WITH,

A portion of Parcel No. 4

The East Half of the Southeast Quarter of Section 8, Township. 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, EXCEPT the south 1337.86 feet (as measured along the east line of said Southeast Quarter) thereof, AND EXCEPT beginning at a point on the east line of said Southeast Quarter lying 2014.58 feet north of the southeast corner of said Quarter; thence west at 90° to the west line of said East Half; thence along said west line to a point 1337.86 feet North of the south line of said Southeast Quarter; thence parallel with said south line 1337.86 feet to the east line of said Southeast Quarter; thence along said east line 676.72 feet to the point of beginning.

TOGETHER WITH,

Parcel No. 7

The East Half of the Northwest Quarter of Section 17, Township. 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas.

TOGETHER WITH,

Parcel No. 8

The West Half of the Northeast Quarter of Section 17, Two. 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas.

TOGETHER WITH,

Parcel No. 9

The east 100' of the West Half of the Southeast Quarter, Section 17, Township 26 South, Range 1 West of the Sixth Principal Meridian. Generally located Between North Maize and North Tyler, and between 53<sup>rd</sup> Street North and 69<sup>th</sup> Street North.

**BACKGROUND:** The applicant is seeking a conditional use to permit sand extraction on an irregularly shaped tract of approximately 500 acres located: north of 53<sup>rd</sup> Street North, east of Maize Road, one-half mile south of 69<sup>th</sup> Street and west of Tyler Road. Access to the site is proposed to be along an approximately one-half mile long, 100-foot wide access easement running north to south between 53<sup>rd</sup> Street and 61<sup>st</sup> Street, located one-quarter mile west of Tyler Road. Vehicles would then cross 61<sup>st</sup> Street North into the plant area. This traffic pattern avoids using Maize and Tyler roads, which are unpaved, and have residential lots fronting the roadways. It is estimated that the use would generate 1.2 million tons of sand during an average year. The overall demand for sand in the Wichita market is estimated to be 3.3 million tons per year.

The major excavation areas are to be divided between four areas located one-half mile north of 53<sup>rd</sup> Street North, between Maize and Tyler. The excavations are to occur in four phases with the first phase, approximately 35 acres in size, located north of 61<sup>st</sup> Street North and east of Maize Road. Phase 2 is located immediately north of Phase 1, and is approximately 54 acres in size. Phase 3 is approximately 85 acres in size, and located east and north of Phase 2 (or west of Tyler Road, just south of the Arkansas River). Phase 4 is located south of 61<sup>st</sup> Street North, approximately one-quarter mile east of Maize Road, and is approximately 127 acres in size. A 100-year floodplain runs between Phases 1 & 2 and Phase 3, and east of Phase 4. The edges of the excavations are to be located at least 150 feet from the property line. It is estimated it will take 20 years to complete excavation. Each phase will be completed before moving on to the next phase. The original redevelopment plan indicated a series of large residential lots fronting the lakes created by the excavations. (The original redevelopment plan was modified as discussed in Case History below.) The sand plant is proposed to be located on the north side of 61<sup>st</sup> Street, approximately ¼ mile west of Tyler Road. As shown on a drawing submitted to the Maize Planning Commission on October 5, 2006, the applicant will place berms along the east side of their property, both north and south of 61<sup>st</sup> Street, to provide screening for the residences to the east. The number of trips generated by this use varies with the time of year and the number of customers. The applicant is estimating there will be up to 250 trucks (500 trips) entering and leaving the site on an average day. The dredge is to be powered by an electric motor.

The application area is currently used for agricultural production, and is zoned RR Rural Residential. Surrounding land is divided into large-lot tracts with a mix of large-lot residential and/or agricultural uses that are zoned RR Rural Residential. There are over 25 homes located west of the application area, most of which have frontage or access to Maize Road. One tract, located south of 61<sup>st</sup> and just west of the application area only has access to 61<sup>st</sup> Street. There are at least 21 homes located to the east of the application area, about one-half of which have access or frontage to Tyler Road; the remaining 11 other tracts take their access directly from 61<sup>st</sup> Street. The application area and the properties surrounding it are located within the Equus Beds Groundwater Management District No. 2. Property owners rely on on-site wells for water supplies. If approved, the applicant will have to obtain any required permits dealing with ground water from the Groundwater Management District and any other agency charged with managing groundwater resources. Planning staff has contacted the Groundwater Management District and was advised that the applicants have been approved a permit for a specified acre-feet of water rights and that they will not be allowed to allow untreated surface water to drain into the pits. Their approval is based upon a safe-yield analysis that evaluates water rights and uses within a two mile radius of the application area.

Unless modified by conditions contained in this conditional use, the code permits hours of operation from 6:00 am to sunset and does not limit the height of stockpiles.

**CASE HISTORY:** The site's current zoning was probably granted in 1985 with the adoption of countywide zoning.

The City of Maize's Planning Commission reviewed this request at two meetings held on September 7, 2006, and October 5, 2006. At the September 7 meeting, the Maize Planning Commission Chairman announced that they would use the meeting as an information meeting only, and would not take a position on the case until the following meeting. There were an estimated 80 to 100 people in attendance; at least 17 spoke. Most of the comments at the September 7 meeting dealt with water rights issues. A representative from the Groundwater Management District was present, addressed questions regarding water right ownership, how water rights are allocated, effect of sand pits on wells and pollution potential from open pits. Other concerns expressed that night dealt with increase in traffic in general, truck traffic in particular and truck and school buses using the same routes. Other comments or questions dealt with: noise, loss of farm ground, need to maintain a rural atmosphere, soil stability and the cost to existing residents to extend public sewer and water to the area once the sand pits are developed with residential uses. The applicant left the meeting indicating they would return to the next meeting with additional information regarding the topics discussed.

At the October 5 meeting there were, again, an estimated 80 to 100 people in attendance. The applicant indicated they had met with City of Maize staff, and had prepared a revised post-development site plan that depicts a more creative lot arrangement than just lots around the edges of the pits; provided an example of how entrances at other locations have been constructed; a typical lot profile; proposed improvements to 53<sup>rd</sup> Street at the plant's entrance; a traffic analysis; a noise analysis and an environmental analysis addressing water quantity and quality, and ground stability. To minimize blowing dust, the access entry road, and high traffic areas (around the scales) will be paved with concrete. Unpaved areas are to be treated with water or other appropriate dust retardant.

Citizen comments included: an alternate set of findings (to the staff report) for denial; concern over the mixing of school buses and sand trucks; the threat that increased truck traffic presents to the Maize school district's many beginning drivers and that the horse stable located west of Maize Road would not be able to use the section line roads for riding because of the increased truck traffic. A Maize school district representative expressed concern regarding any closure or vacation of 61<sup>st</sup> Street as it could add up to three extra miles to a bus route. A couple of people spoke in favor of the proposal.

After over five hours of comments between the two meetings, the Maize Planning Commission closed the public comment portion of their meeting. The initial motion was for denial, but it died for lack of a second. The second motion was for approval subject to the conditions contained in the staff report plus the following recommendations: 1) the redevelopment plan presented on October 5 be incorporated into the conditions of approval, as well as the other commitments made during the meeting: berms; improvements to 53<sup>rd</sup> Street; paving of access road and high traffic areas, dust control efforts in other areas; electric dredging; plant entrance improvements; hours of load out operation limited to 7:00 a.m. to 5:00 p.m. except that loading begun before 5:00 shall be allowed to finish loading; 2) a second traffic analysis is to be done one year from beginning operations, and the applicant will pay for and install any improvements necessitated by the new analysis and 3) the applicant will pave the 61<sup>st</sup> Street crossing to the plant area. The motion passed 4-1.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Rural Residential; large-lot residential or agriculture  
SOUTH: RR Rural Residential; large-lot residential or agriculture  
EAST: RR Rural Residential; large-lot residential or agriculture  
WEST: RR Rural Residential; large-lot residential or agriculture

**PUBLIC SERVICES:** 53<sup>rd</sup> Street North is a paved rural major collector, however Maize Road north of K-96 and Tyler Road north of 53<sup>rd</sup> are unpaved local serving section lines. 61<sup>st</sup> Street North is an unpaved local serving section line road. 53<sup>rd</sup> Street carries an average daily traffic volume of 4,134 vehicles. Traffic counts are not available for 61<sup>st</sup> or Maize and Tyler north of 53<sup>rd</sup> Street. Staff believes Maize Road (north of K-96), Tyler Road (north of 53<sup>rd</sup> Street) and 61<sup>st</sup> Street are maintained by Park Township. Significant truck traffic on unpaved roads will lead to increased maintenance requirements, and will trigger a need for additional improvements to mitigate the impact. No public sewer or water is available in this area.

**CONFORMANCE TO PLANS/POLICIES:** The Sedgwick County Development guide depicts this site as being located within the City of Maize's 2030 "urban growth area," and contains policies that look favorably on uses that are resource based. The plan also contains recommendations stating that industrial uses should not feed directly to local streets in residential areas; and that industrial areas should be generally located away from existing residential areas, and sited so as not to generate industrial traffic through less intensive areas. The site is located within the City of Maize's "zoning area of influence" and they heard the request on September 7, 2006 and October 5, 2006. The City of Maize Land Use Plan depicts the site where the excavations are to occur, up to one-half mile north of 61<sup>st</sup> Street, as appropriate for "large-lot residential."

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site and redevelopment plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D, gg (attached), unless specifically modified by conditions contained in this conditional use. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions.
2. The applicant shall guarantee the installation of right-turn and left-turn lanes on 53<sup>rd</sup> Street North at the access easement that provides the entrance to the mining operation. The applicant shall request vacation of a portion of 61<sup>st</sup> Street and provide cul-de-sacs at appropriate locations to terminate the road. The improvements shall be installed prior to the commencement of mining. An application for the vacation or closure of 61<sup>st</sup> Street must be on file prior to the commencement of mining. If the 61<sup>st</sup> Street vacation request is not successful, the applicant will work with County Public Works to arrive at another solution within three months of the failure of the vacation action. The access road between 53<sup>rd</sup> Street and 61<sup>st</sup> Street shall be paved.
3. In addition to the standard specified in Sec. III-D gg.(6) and (22), interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by County Code Enforcement, the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used shall be maintained and provided to County inspectors.
4. The Conditional Use for sand extraction shall be valid for twenty years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the twenty year time period.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All land in the general area is zoned RR Rural Residential and used for a mix of agricultural and large-lot residential. Due to the number of large-lot residences and the area's proximity to Maize the area exhibits a "suburban" residential character.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned RR Rural Residential and is one of the more restrictive districts found in the code. The site could be developed as currently zoned for low-density residential uses with a two-acre minimum zoning lot size. However these homes would have to use on-site sewer systems or extend sewer service since sewer service is not available.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: During excavation there will be additional noise, truck traffic and blowing dust when compared to residential development. When excavation is completed, the resulting lake could be seen as an enhancement as water features are generally viewed as positive additions to residential settings. The conditions of approval will help to mitigate detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The construction industry requires sand. The applicant is in the aggregate business and cannot operate his business without sand. When one is dependent upon a resourced based material like sand, one must go where the sand is located. If the request is denied, presumably the applicant will suffer an economic loss, as he will need to find another site. Since sand is used in many public and private projects, a shortage of sand could negatively impact these projects by raising the cost or increasing the time to complete these projects. When completed the resulting lake can be seen as an amenity to the community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Sedgwick County Development Guide depicts this site as being located within the City of Maize's 2030 "urban growth area," and contains policies that look favorably on uses that are resource based. The plan also contains recommendations stating that industrial uses should not feed directly to local streets in residential areas; and that industrial areas should be generally located away from existing residential areas, and sited so as not to generate industrial traffic through less intensive areas. The City of Maize Land Use Plan depicts this site where the excavations will occur, up to one-half mile north of 61<sup>st</sup> Street, as appropriate for "large-lot residential." The applicant's proposal for the access road removes truck traffic from section line roads and the redevelopment plan is consistent with long-range land use objectives of the City of Maize. The City of Maize could not have anticipated that so much of this area would be taken up by lake area thereby reducing the total land area available for development in this area. However, the quality of development that usually occurs around sandpits is higher than average when compared to developments that don't have similar amenities.
6. Impact of the proposed development on community facilities: Increased truck traffic on section line roads will likely increase maintenance requirements. Sand extraction does not require publicly supplied sewer or water services.

**DALE MILLER**, Planning Staff presented the staff report.

**BISHOP** announced that she had an ex parte discussion regarding the case.

**MCKAY** clarified that the development would take place in four phases, and that the development of each subdivision would take place as each phase was completed.

**BOB KAPLAN**, AGENT said he was here to represent Mr. and Mrs. Simon, the landowners, and LaFarge North America, Inc., the sand pit operator. He said he was especially pleased to be representing a company that had the expertise, the resources, and the ability to develop a plan, which was well thought out, well researched and well communicated. He said although he couldn't walk the MAPC through all the details of the plan, that would be impossible, he stated that he had invited all of the experts employed by LaFarge that assisted with the technical, operational, traffic, environmental, and other issues related to the plan to today's meeting so they could address any questions concerning their individual areas of expertise. He briefly introduced the following individuals:

Site Plan - Greg Allison, Mid-Kansas Engineering Consultants, Inc.  
Operations - Rick Heise, LaFarge North America, Inc.  
Traffic Analysis - Gene Rathe, Mid-Kansas Engineering Consultants, Inc.  
Noise Study - Emily Henderson, Wilson, Darnell and Mann  
Environmental and Water and Soil Issues - Dr. Bryce Winter, PHD

He commented that the Maize Planning Commission had voted 4-1 to approve the conditional use permit. He mentioned that he has also met with Richard LaMunyon, Maize City Administrator and Kim Edgington, Maize Planning Administrator concerning the permit. In addition, he said they had met with James Baker, Assistant Superintendent of Maize Public Schools (USD #266), and Jim Weber, Sedgwick County Public Works, concerning traffic and transportation issues.

He briefly reviewed several previous meetings concerning the permit including a neighborhood meeting and an informational meeting at the Maize Planning Commission, which included a question and answer type format where participants were able to present information and ask questions. He said there have also been meetings with staff from the Division of Water Resources, State of Kansas, and Ground Water Management District II concerning water rights. In addition, he said the Maize City Council and Maize Planning Commission held a workshop regarding the permit, and added that he and the applicant had absented themselves from that meeting. He commented that he understood the Thompson's wanted to do their own sand pit, and that he had invited them to meet to discuss their options, however, he said he had received no response to his request. He said they have done everything that has been asked of them and that they have addressed every issue.

He invited the MAPC to ask questions of the experts present at the meeting. He mentioned that the Division of Water Resources did not issue Water Permits unless they were researched. He said that has been done and the permits have been issued. He said this was a long-range, forward-looking plan that will result in the development of very high quality subdivisions. He said many previously approved sand extraction operations ultimately resulted in a high quality subdivisions.

He concluded by reiterating that each development will be started when that particular phase is completed. He said the applicant is also building an access road to keep traffic off of Maize and Tyler Roads. He said LaFarge would also be using an electrical dredge to minimize noise concerns. He said the plan is as well thought out and as well prepared as any he has ever seen. He encouraged the MAPC to approve the application and let it go forward.

Chairman **DOWNING** asked any speakers who supported the case to come forward.

**JAMES MILLER**, 5745 N. Tyler Road, Maize said his residence was located directly in front of phase four. He said he supported this application and that the majority of his neighbors also supported it. He said the opposition who live at Mystic Lakes don't want other people to have the opportunity to live on a lake. He said tax dollars generated by this development would benefit the City of Maize, Sedgwick County, and the Maize school district.

**GISICK** out at 2:19 pm/ back in at 2:20 pm.

Chairman **DOWNING** asked any speakers who were opposed to the case to raise their hands. He explained to the MAPC that he had been asked to allow one person to speak for the majority of people present for 30 minutes. In addition, it appeared that four other people wanted to speak independently.

**MOTION:** To approve the request to let one person speak for 30 minutes, in addition to allowing four other people to speak for five minutes each.

**DOWING** moved, **WARNER** seconded the motion and it carried (8-3). **MARNELL, MCKAY, and MITCHELL** - Nay.

**CHARLES BENJAMIN**, Environmental and Land Use Laws Attorney, said he was there to represent the "Concerned Citizens for the Benefit of Maize, Inc." and the Mystic Lake Homeowners Association. He introduced Mary Belton who he said was there to give a PowerPoint presentation on the proposed application.

**MARY BELTON**, 10,009 Lake Lane, said although she was on the Maize Planning Commission, her property was within the notice area which was considered a conflict of interest. She had recused herself from the Commission's vote on this issue. She said her home was within 1,000' of the application area. Ms. Belton reviewed in detail the nine "Review Criteria" as follows:

1. The Zoning, uses & character of neighborhood
2. Suitability of subject property for uses to which it has been restricted
3. Extent to which removal of restrictions will detrimentally affect nearby property

4. Length of time property has remained vacant as zoned
5. Gain to public health, safety & welfare as compared to loss in value or hardship on applicant
6. Conformance of change to Comprehensive Plan or policies
7. Impact on community facilities
8. Opposition or support of neighborhood residents
9. Recommendations of professional staff

Tape 1, Side 2

She concluded the presentation by requesting that the MAPC disapprove the project as proposed.

**ALDRICH** asked how it was determined that the project would have an adverse affect on property values, where did they obtain that information? In addition, he asked where Ms. Belton lived in relationship to the project.

**BELTON** commented that phase four of the project was adjacent to the east side of her property, next to her front yard. In addition, she said a real estate agent provided the property value information, based on the criteria that typical developments of this nature cause a 1% depreciation in the market value of adjacent homes. She added that there was no actual market analysis, which would have cost the non-profit organization to contract.

**MITCHELL** clarified that the application was not for an industrial use and industrial zoning, but for a conditional use permit on Rural Residential zoning.

**BELTON** said they considered the sand operation heavy industrial use.

**CINDY SIBLER**, 6901 N. Tyler Road, stated that phase three surrounded all four sides of her property. She said her property has been in her family since 1939 and that it was her family heritage, something she wanted to give to her children as an inheritance. She said since "Gramma's Farm" opened to the public in 2001, she has offered the small Kansas farm heritage and natural, pristine environmental experience to the public. She said they are registered as an agra-tourism business. She said the property backs up to the Arkansas River and there are nature trails, with observation points along them. She said they partner with several non-profit agencies such as the Great Plains Earth Institute, United Way, Ameri-Core, Vista, local high schools as well as the "Trees for Life" organization. She said she is concerned that the natural pristine environment and wildlife will be lost due to this type of development. She said we need to keep our eyes on the future or there will be no past foundation to draw on, no clean air to breath, no natural quiet environment to experience and no pure water to drink. She said those were issues that she felt were most important. She asked the question, what are we leaving future generations?

**SHERMAN** asked Ms. Sibling to identify the location of her property on the map. She also asked Ms. Sibling if she would still be able to operate her business after development.

**SIBLER** commented that there might be some aspects of the business that she could pursue; however, the natural pristine environment and wildlife habitat will not be what it is now.

**CHARLES BENJAMIN** thanked the MAPC for allowing the group to make this type of presentation. He provided MAPC members a packet of testimonials in opposition to the proposed application. He said he did not want to lecture the MAPC on zoning law, but referred to handouts provided for the public at the meeting including "The Golden Rules"; City Council Policy #9, other information on zoning hearings and asked the MAPC to consider those. He said these provided the criteria the MAPC was supposed to consider on zoning cases. He said staff's opinion was only one of those criteria. He commented that the applicant has hired their own consultants to back their claim that this project would have no deleterious affects; however, concerned individuals disagreed. He also mentioned that these folks were there first. He said some of the individuals have held land for over 100 years. He said this proposal was not for a housing project that may or may not happen sometime in the future and that there was no way to guarantee there will be houses around the project when it is finished. He concluded by saying that on behalf of his clients this was the wrong project, at the wrong time, at the wrong place and urged the MAPC to deny the application.

**MITCHELL** commented that the area is currently zoned Rural Residential and will continue to be zoned Rural Residential.

**CHARLES BENJAMIN** said approval of the conditional use permit would have the same effect as a changing the zoning.

**MARK HOUSER**, 8405 W. Mystic Lakes North stated that he was one of the three partners, Denmark Land, LLC, who developed Mystic Lakes so he had been through this same procedure 6-7 years ago. He said the applicant owns the land and that the redevelopment plans were nothing concrete. He said because of the low density level, they could not find a developer who was willing to spend the time and effort for the Mystic Lake project so they had to do it on their own because they wanted to live out here. He said they knew nothing about the cost of bringing utilities to the site. He mentioned the Central Sand site, and that it could not be developed because there was not enough property to justify the cost of bringing utilities to the area. He said urban utilities can make lots so cost prohibitive that no one can afford to buy them. He said the conditional use permit does not restrict the applicant to anything. He said they could operate 24 hours a days if they wanted to, with zero operational concerns. He admitted that Denmark Land LLC violated some of their operational restrictions during development. He said there was a total lack of restrictions on hours of operation and sound on this application. He mentioned traffic and the need for a left turn lane at the entrance; he added that they would also like a turn lane at 53<sup>rd</sup> and Tyler. He suggested putting the length of development, the redevelopment plan, and that each phase be developed as it is completed in the conditional use permit criteria. He said the project may end up just being holes in the ground and never developed. He concluded by saying that he felt the City of Maize was looking at the "carrot" of an increased tax base.

Tape 2, Side 1

**ALDRICH** asked **HOUSER** if the Mystic Lake development was completed?

**HOUSER** said yes, and mentioned that they had asked for an extension to finish some of the removal. He added that two lots out of the 19 lots were not developed, and added that the total development consisted of 80 acres.

**BISHOP** asked if they had urban services such as water and sewer, etc?

**HOUSER** said they have electricity, but that everything else was well and septic and some propane tanks that were buried. He mentioned that the Maize sanitary sewer system was located on the east side of the development, but that it was gravity fed and that they could not tie into it without a lift station.

**HILLMAN** asked if Maize voted for this based on development of a supporting sewer system for this area.

**HOUSER** said he did not believe the lot sizes were large enough for urban development. He said the lake situation requires a tremendous set back, about 50' from the edge of the water. He said a 1-acre lots redevelopment plan depended on getting urban services and mentioned obtaining a cost study to get utilities delivered out there. Responding to a question from **GISICK**, **HOUSER** said Mystic Lakes had two 15-acre lakes. He said 30 acres of the 80-acre development was water, plus 20 acres of reserve and commons area. He said approximately 20 acres was actually residential.

**WARNER** asked about the water skiing competitions at the lakes, number of participants, etc.

**HOUSER** said the competitions usually draw anywhere between 30 to 50 participants and their families.

**JAMES BAKER**, Maize School District, USD #266 commented that school officials don't usually come and speak to these types of issues or become involved because they did not think that was their place. However, he said USD #266 was concerned about the discussion of closing 61<sup>st</sup> Street. He said if that happened, seven bus routes would be affected -- five routes in the am and two routes in the pm -- and that it involved more than one bus. He said their main concern was child safety and lengthening of the bus ride. He said if they can't use 61<sup>st</sup> Street, they will need to go back down to Tyler to 53<sup>rd</sup> which will get bus traffic involved with the trucks from the sand pit operation. He said representatives from LaFarge have visited with him and that possible closing of 61<sup>st</sup> was a concern of the school administration.

**MCKAY** asked what percent of the 6,000 Maize students would the closing of 61<sup>st</sup> Street affect?

**BAKER** said he thought very few students would be affected.

**HILLMAN** asked if **BAKER** had any recommendation on the idea of lowering the speed limit in the area.

**BAKER** said Tyler and Maize Roads and 61<sup>st</sup> Street are paved and routing trucks around that way made more sense. He added that there have been several serious accidents at Tyler and 53<sup>rd</sup> Street. He mentioned that lowering the speed limit would lengthen the bus ride.

**WARNER** asked if they could work out a compromise on 61<sup>st</sup> Street, would USD #266 have a problem with the application?

**BAKER** said they would be more in favor of it.

**BOB KAPLAN** said he had some problems with the alleged factual statements that were made during the PowerPoint presentation that were incorrect and as well as some of the philosophical observations. He commented that he was sure the MAPC knew their function as well as they needed to. He said the application was for 500-acre site. He said subsequent development was part of the application and part of the site plan. He said the development would be comparable to other residential developments around former sand pits. He said the City of Maize wanted to see this application approved and added that the Maize Planning Commission recommended approval of the application. He said it was patently obvious that the matter would be heard by the County Commission. He commented that Ms. Belton does a good presentation and that she has done her homework; however, from a philosophical point of view, it was nothing more than a serious critique and criticism of the engineers and other experts that had provided information on the application and he objected to the idea that they did not have time to prepare appropriate reports, and that the reports should not be given any credibility. He said this was simply merit less criticism and that Ms. Belton had provided no documentation or evidence to support her own conclusions. He concluded by saying that he felt the application was well thought out and researched and requested that the MAPC make their own decision on the case based on the reasonableness of the application.

**SHERMAN** asked about operational times and whether that was addressed in the staff report. She also asked how long it took to load a truck?

**KAPLAN** said operational hours were from 7:00 am – 5:00 pm, which was actually one hour less than the code actually permitted. He said if they started loading a truck before 5:00 pm, they wanted to be allowed to finish.

**HEISE** commented that it typically took approximately ten minutes to load a truck and ticket it out the gate.

**SHERMAN** asked how many trucks could be in the cue and how the restrictions would play out with five o'clock traffic.

**HEISE** said they would like the flexibility on the 5:00 pm cutoff, and added that they were talking about reasonability. He also mentioned that with the electric dredge they would run a second shift with about three people. He said that they had spoken with Mr. Baker concerning mitigating trucks traffic at peak times on 53<sup>rd</sup> Street; say between 7:00 - 8:15 am.

**SHERMAN** asked how this proposed sand pit operation would rank in size as compared to other sand extraction projects and how many of the projects in the immediate area were currently active?

**MILLER** responded that eight sand pits were currently active (or had time left on their conditional use permits), and that the Kingsbury site at 460 acres was the largest. He also said, based upon comments by the applicants, only four of the pits were in operation even though several sites had time left on their conditional use permits. He mentioned that Kingsbury had until 2025, three sites had until 2010, one site had until 2011, and one site had until 2016.

**ALDRICH** asked what was to prevent untreated surface water from draining back into the area.

**GREG ALLISON**, MKEC said the water permit from the Division of Water Resources required certain actions to be taken such as creation of berms around the perimeter of each of the ponds that will not allow surface water into the pond.

**BISHOP** asked about the layout of possible future development.

**ALLISON** referred to a map of the “modified” lot lay out. He mentioned the new road, which connected to 61<sup>st</sup> Street and Maize Road. He also mentioned that they had eliminated the lots along Maize Road.

**MARNELL** asked if there was sufficient land for access for all those openings on an arterial street for the lots along 61<sup>st</sup> Street.

**ALLISON** said they would have to obtain some additional land to be able to create that access. He said some of those issues would be ironed out at the time of platting, including the possibility of shared driveways.

**MCKAY** said he did not agree with that statement. He said they were in control because they were pumping sand out and creating the lakes. He said they should provide an access road other than 61<sup>st</sup> Street.

**ALLISON** said they could modify the site design based on discussion at this proceeding.

**SHERMAN** said she would like a definition on the hours of operation up to 5:00 pm and after.

**AARON BARCUS**, LaFarge said normal business hours were 7:00 am – 5:00 pm. He said trucks were preloaded at night between the 5:00 - 6:00 pm range and that got them off of the roadway; they would be parked within the LaFarge yard. He said the trucks would then leave earlier in the morning and that they would make every effort to help control traffic issues. He said they just wanted a little leeway.

**SHERMAN** said that “little bit of leeway” was what made her nervous. She asked about establishment of a 30-minute grace period.

**BARCUS** said they could have the trucks in and parked between the 5:30 – 6:00 pm range.

**SHERMAN** asked how many sand pits could be operational in one area at one time and who controlled that?

**MILLER** responded that the MAPC controlled that activity and that currently there were no regulations in the Unified Zoning Code restricting the density of sand pit activity.

**BISHOP** said she was concerned that there was nothing in the zoning code, especially because some uses are considered intensive in nature and can be problematic to surrounding neighborhoods. She suggested putting a density requirement into the code that certain operations be “X” far apart in order that a lot of them don’t get piled up in one area.

**GISICK** clarified that the code allowed operations from 6:00 am until sunset.

**MILLER** said the MAPC could restrict operations to 7:00 am – 5:00 pm, except that loading begun after four o’clock would be allowed to be finished.

**GISICK** suggested they not be allowed to accept a truck after 5:00 pm.

**HILLMAN** said since Maize approved this, the process appears to support the extension of electrical and water to this area even if a lift station is required.

**KIM EDGINGTON**, Planning Administrator for the City of Maize said the Maize Planning Commission considered the future viability of serving this area with urban services. She said there is phenomenal amount of growth occurring in Maize right now. She indicated where the current wastewater treatment facility was located on the map and commented that Maize City staff did not feel that bringing services up Maize Road was unreasonable in the future.

**MARNELL** asked how Maize City staff felt about the driveways along 61<sup>st</sup> Street.

**KIM EDGINGTON** said there had been discussion regarding that issue; however, their major concern was the driveways along Maize Road. She said 61<sup>st</sup> Street was not considered a major arterial.

**GISICK** asked about the possibility of requiring the developer to submit subdivision plans to the Planning Director after each phase for review and that the developer be required to push forward. He said he was concerned about pillaged land and that requirement might be an opportunity to review the development as it grew.

**MILLER** commented that the MAPC could come up with any restrictions with respect to the application as long as they were reasonable and non-arbitrary.

There was brief discussion concerning the conditional use permit. Responding to a question, **MILLER** explained that the conditional use permit would expire when the time limit was up.

**MCKAY** expressed concern regarding reducing openings on 61<sup>st</sup> Street.

**GISICK** asked if having only one ingress/egress into a subdivision would be in compliance with the International Fire Code.

**MILLER** explained that county subdivision regulations require at least two routes or some other alternative with the same effect for emergency services.

**KIM EDGINGTON** said they would be comfortable limiting the number of driveways openings along 61<sup>st</sup> Street to six.

**ALDRICH** said he needed to disclose that he did business with another division of LaFarge out of state, but that had no bearing on this case.

**BISHOP** said she was in a quandary about the staff report, that it could be read both ways, as either reasons for approval or disapproval of the application.

**MOTION:** To disapprove the application based on the wording of the staff report.

**BISHOP** moved, no second. The motion died due to lack of a second.

**BISHOP** said she thought opposition's presentation was excellent, and added that she felt there was an over-abundance of sand extraction in this area.

**MOTION:** To approve the application based on staff recommendation and the addition of limiting the number of driveways along 61<sup>st</sup> Street to six; and adjustments to hours of operation in accordance with that approved by the City of Maize and leaving the closing of 61<sup>st</sup> Street to the County Engineer.

**MITCHELL** moved, **MCKAY** seconded the motion and it carried (10-1). **BISHOP** - Nay.

**GISICK** asked about the issue of closing 61<sup>st</sup> Street.

**MITCHELL** said he would leave that decision to the Sedgwick County Engineering Department.

Tape 2, Side 2

**SHERMAN** said she would vote for approval with "much distress". She said she would like to go on record that she would like to see this body put some type of vehicle in place to better manage the density and the number of extraction operations taking place at one time in a given area, not necessarily to limit commerce, but to assist in the planning and development of areas. She said she understood there was a limitation of natural sand resources and that projects are coming on board that will require sand. She said she believes the MAPC will encounter this same type of situation time and time again. She concluded by saying that she feels these types of projects need to be better managed and added that there are too many open projects that the MAPC is not really clear on exactly when they are going to be active.

Chairman **DOWNING** suggested a five minutes recess, and that the MAPC reconvene at 4:15 pm.

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5. **Case No.: DR2006-10** - Request Public hearing to consider adoption of the K-96 Corridor Economic Development Plan as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

Generally located The plan area is the K-96 highway corridor between the Wichita and Hutchinson.

**Background:** The counties of Sedgwick and Reno and the cities of Maize, Mt. Hope, Haven, and South Hutchinson have undertaken a collaborative planning effort for the K-96 highway corridor between the Wichita and Hutchinson metropolitan areas. The planning effort resulted in an economic development plan for the corridor (see attachment). The plan contains 37 implementation strategies for the promotion of economic development along the corridor. The implementation strategies address issues such as ongoing or future planning efforts, land development regulations, capital improvement programming, public/private partnerships, development incentives, non-local government programs, private investment, and citizen and community organization initiatives.

The plan is proposed to be adopted as an amendment of *The Wichita-Sedgwick County Comprehensive Plan*. The amendment process requires an advertised public hearing to be held by the Metropolitan Area Planning Commission (MAPC). On the July 6, 2006, the MAPC set October 19, 2006 as the date for a public hearing date to consider adoption of the plan, and the hearing was advertised in the official newspapers on September 28, 2006.

The Advance Plans Committee reviewed the plan to determine its compatibility with the Comprehensive Plan at meetings on July 20, 2006, August 17, 2006, and August 30, 2006. The Advance Plans Committee found that the K-96 Plan recommends changes to regulations that would require development to conform to adopted policies; whereas, the Comprehensive Plan recommends relatively flexible regulations that allow decision makers to more easily deviate from adopted policy. Therefore, the more stringent recommendations of the K-96 Plan are recommended to be modified so that they are more flexible and, thereby, more compatible with the Comprehensive Plan. The Advance Plans Committee recommends that the *K-96 Corridor Economic Development Plan* be adopted as an amendment of *The Wichita-Sedgwick County Comprehensive Plan*, but only with the modifications recommended in the attached resolution.

**Recommended Action:** That the MAPC pass a resolution adopting the *K-96 Corridor Economic Development Plan* as an element of *The Wichita-Sedgwick County Comprehensive Plan* with the modifications outlined in the resolution.

**Attachments:** K-96 Corridor Economic Development Plan  
Resolution



**SCOTT KNEBEL**, Planning Staff presented the staff report.

**KNEBEL** said in the opinion of the Advance Plans Committee, there were some incompatibilities with the recommendations of the Economic Development Plan and the overall Wichita-Sedgwick County Comprehensive Plan. He said primarily these differences pertained to the fact that the Economic Development Plan recommended establishing permanent regulations for the continued support of the policies contained in the plan; whereas, the Comprehensive Plan recommended a more flexible approach of establishing a policy which could then be reviewed on a case-by-case basis to determine whether or not it was appropriate for that specific case. He advised that the Advance Plans Committee had made a recommendation contained in a resolution, and Attachment "A" to the resolution contains six modifications to the implementation strategies recommended by the Plan. He said they were recommending that the Plan be adopted as an amendment to the Wichita-Sedgwick County Comprehensive Plan with the recommended modifications. He introduced Harland Priddle, Executive Director, K-96 Corridor Economic Development Association, Inc., and said he said was present to explain the purpose of the plan.

**HARLAND E. PRIDDLE** briefly reviewed a PowerPoint Presentation on the corridor, which included an overview on the following items: Definition of Corridor; Why Was Coalition Developed; What was primary purpose of the Plan; Current Status; Comments on the recommended resolution; and summary. He concluded by requesting that the plan be approved and forwarded. He added that he felt the comments, suggestions and recommendations of the Advance Plans Committee in the resolution and Attachment "A" were very appropriate. He said there was never any intention that things be "directive", but only recommended types of things. He said removal of the K-96 Corridor Resource Protective Overlay District was appropriate. He said there might be a time to do that but not in this plan. He thanked the MAPC for their assistance and said they would probably amend the Plan a little bit. He said the resolution and attachment would assist MAPD staff to discourage certain development, but promote and encourage others. He said it would also provide staff the ability to recommend zoning changes if necessary. He said the plan would assist communities, counties and organizations to promote economic development along the corridor. As a side note, he commented that the Plan has been very important to the communities. He said three of the four communities, South Hutchinson, Haven and Mt. Hope have all had what he calls planning for the future visioning workshops. He said this has given them an incentive to get organized themselves. He concluded by requesting that this Plan be made a part of the Wichita-Sedgwick County Comprehensive Plan for guidance and referral in the future.

**MCKAY** asked why Yoder was not included in the Plan.

**PRIDDLE** explained that Yoder was an unincorporated City, and added that they have talked to them and they are on-board with the Plan.

**HENTZEN** asked if there was anything in the corridor plan that will be affected by the sand extraction application.

**PRIDDLE** responded "no". He added that **MITCHELL** has asked him the last time he saw him how many acres are between K-96 and the Arkansas River. He said there are 10,640 acres in Sedgwick County, as best they can determine.

**MITCHELL** responded that one of his comments was that about half of that was in the Flood Plain.

**MITCHELL** explained that he had sat in on some of the meetings of the Advance Plans Committee and has registered his concerns regarding some of the provisions. He said he was very proud of the work that Attachment A represented. He said he did have a couple of problems with those, but that it has been "cleaned up" considerably compared to what he was concerned about. He said he wasn't sure if the word "nodal" really does anything for item #1, if we promote compact development that is adjacent to existing municipalities. He said he does not like the phrase "encroaches upon prime agriculture land and resources" in item #3 because he had no idea what the definition of what "prime agriculture land and resources" was. He said that could be anything in Sedgwick County and he didn't think they ought to be discouraging development on that basis. He said in item #4 the phrase "adopt new design review guidelines..." – not requirements – "...to protect natural areas and vistas within the corridor including Arkansas River" was way too broad and he was not sure what they could do to "protect" those areas, if we were able to define them. He said on item #5 he recommended modification as recommended by the Advance Plans Committee. He said either way, he was willing to support what the Advance Plans Committee did, but he would like to see some changes made.

Chairman **DOWNEY** asked if there was anyone present to speak to this issue. No one responded.

**HENTZEN** commented that K-96 was one road coming into Wichita from another county. He said there are a lot of roads coming into Wichita from other counties such as K-15, K-42, K-254, etc. He said if we adopt a corridor plan for one road, maybe not even the major road that comes into the community, where do you think are we headed on all the others?

**KNEBEL** said his personal opinion was that it wouldn't surprise him to see the MAPC do other corridor plans. He commented that one had been prepared for K-254. He said there has been discussion between Park City and Newton, although he didn't know if they were going to proceed with doing a corridor plan for the I-135 corridor. He said as a personal opinion, it would not surprise him to see other corridor plans done in the future.

**HENTZEN** said he got that from the infectious approach of the neighborhood plans. He said he did not know how many neighborhood plans have been adopted by the MAPC, but that funding hasn't been provided for the any of them.

**KNEBEL** commented that was not accurate; that some funding has been provided for most of the neighborhood plans.

**MARNELL** asked if **MITCHELL** had any suggested language to change the modifications.

**MITCHELL** said he would be willing to make a motion that "nodal" be removed from item #1; take out that section of item #3 having to do with "discouraging development that encroaches upon prime agricultural land and resources"; on item #4 he did not like the concept of "protecting natural areas and vistas" that still can't be defined. He suggested rewriting the item regarding "new design review guidelines" to make it practical. He said there may be some benefit to new design review guidelines, but he wasn't sure what that would be.

**KNEBEL** clarified that **MITCHELL** wanted the sentence to end at "in highly visible locations". There was brief discussion concerning whether this meant the whole corridor.

**KNEBEL** said he disagreed that the whole corridor was visible from the roadway itself.

**BISHOP** said this drove her nuts, no wonder some folks call them the “Un-Planning Commission”. She said she would like to point out that this document is called the K-96 Corridor Economical Development Plan because there were a lot of folks along this corridor that believed that this kind of planning would be to their economic benefit. She said they are looking at becoming a destination; they are trying to preserve those things that make driving to Hutchinson enjoyable; and they are trying to preserve the possibility for recreational and open space development along the Arkansas River in the future. She said for the MAPC to emasculate their efforts any further is just a travesty.

**WARNER** said he did not necessarily agree with that. He said he did not believe that this group had the right, taking her scenario, from Reno County to designate an area that comes into Sedgwick County and legislate and change our plans or Comprehensive Plan. He said if they want the MAPC to approve this plan, at least in Sedgwick County, it is going to be approved the way the MAPC thinks it should be.

**BISHOP** said respectfully she believes that planning frequently needs to be done on a regional basis. She said the Sedgwick County line was not a Berlin Wall, it was just a line on a map and that planning needs to be broader than that. She said she feels they need to take into consideration what is happening in other communities and what their needs are.

**WARNER** commented that they are concerned with their needs and we are concerned with ours — that is the way it works.

**BISHOP** said she believes those areas in Sedgwick County along the corridor are interested in this planning process.

**WARNER** said he was sure they were, and that the MAPC had not done anything to discourage development and whatever they needed to do in their areas.

**HILLMAN** said he believed on their original discussion on this area, the concept of “nodal” or concentrated areas where development would take place where there was support for water, sewer and electrical and those kinds of things. He said they could call it something else, that maybe the term “nodal” was confusing. He said “nodal” was trying to develop a business where it can be supported, and not a lot of stand-alone operations in shacks up and down the highway in a continuous parade of promotions, making the area tacky driving from Wichita to Hutchinson. He said he understood the concept of trying to set up areas and promote growth in communities that already exist and that already have the services there. He said he supported that concept whether it is called nodal or anything else.

**MARNELL** asked staff about the concept to “Promote compact nodal development that is adjacent to existing municipalities”. He said if someone came in with some type of development application between Mt. Hope and Maize, as an example, would staff oppose that because the plan says, “promote” compact nodal development?

**KNEBEL** said it would depend on whether it was a compact nodal development proposal or not.

**MARNELL** asked if someone wanted to develop a rural subdivision, would staff consider that as a rural node, that the language wouldn’t compel staff to say “no” that the development needed to be near one of the existing communities?

**KNEBEL** said basically what the plan says is “Promote compact nodal development that is adjacent to existing municipalities”, it does not say discourage or prohibit any other type of development.

**MITCHELL** said the wording that was suggested could be criticized as not being in compliance with the Wichita-Sedgwick County Comprehensive Plan.

**KNEBEL** said he actually stole that statement out of the Comprehensive Plan.

**MARNELL** said in regard to **MITCHELL’S** objection to item #3, how could that be stricken from the plan totally.

**KNEBEL** indicated that he could reword Attachment A to reflect that it was not supported.

**MARNELL** said he would support that.

**MITCHELL** laughingly commented that having been embarrassed by the fact that he obviously didn’t read the term “nodal” in the Comprehensive Plan, he was willing to accept item #1.

**MOTION:** To adopt the plan as modified by Attachment A, and except that the MAPC does not support item #3.

**MARNELL** moved, **WARNER** seconded the motion and it carried (10-1). **BISHOP** – Nay.

**BISHOP** said she could not support the motion for reasons already stated.

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**6. Case No.: DER2006-17** – Request The City of Park city seeks annexation of tracts of land located north of 77<sup>th</sup> Street adjacent to the city of Park city.

Generally located All Districts

DAVE BARBER, Planning Staff presented the staff report.

**Background:** On September 26, 2006, the City of Park City passed Resolution No. 663-2006 authorizing a public hearing on November 28, 2006 for the purposes of considering the unilateral annexation of four tracts of lands located north of 77<sup>th</sup> Street between I-135 and Hydraulic Avenue, adjacent to the City of Park City.

The proposed annexation tracts fall within the City of Park City 2030 Urban Growth area as designated on the Wichita and Small Cities 2030 Urban Growth Areas Map of the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Wichita City Council and the Board of County Commission in May 2005. The subject annexation tracts also fall within Park City's future growth area as identified in their adopted Comprehensive Plan.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Park City has submitted to the MAPD, a complete service plan describing the extension of municipal services to the annexation area.

**Analysis:** Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation of four tracts of land located north of 77<sup>th</sup> Street between I-135 and Hydraulic Avenue, adjacent to Park City is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

**Recommended Action:** That the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 663-2006 of the City of Park City to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan

**Attachments:**

Attachment No. 1 - Resolution No. 663-2006, Map and Service Plan

Attachment No. 2 - Wichita and Small Cities 2030 Urban Growth Areas Map (05/05)

**MOTION:** To approve subject to staff recommendation and acknowledge that the proposed annexation is compatible with the Wichita-Sedgwick County Comprehensive Plan.

MITCHELL moved, WARNER seconded the motion and it carried (11-1).

**7. OFF AGENDA ITEM – 2007 MAPC Hearing Date Calendar.**

**MOTION:** To approve the MAPC Hearing Date Calendar as presented.

WARNER moved, HENZTEN seconded the motion and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at >>> p.m.

State of Kansas        )  
Sedgwick County        ) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)

